

UNITED STATES OF AMERICA,

V.

Defendants.

Civil Action No.:

Plaintiff, the United States of America, by authority of the Attorney General of the United States and on behalf of the Administrator of the United States Environmental Protection Agency (“EPA”), alleges the following:

1. The United States brings this civil action under Sections 205(b) and 211(d) of the Clean Air Act (“the Act”), 42 U.S.C. §§ 7524(b) and 7545(d), seeking civil penalties for certain violations of Section 211(c) and (k) of the Act, 42 U.S.C. § 7545(c) and (k), and regulations promulgated thereunder.

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1345, and 1355, and under Sections 205(b) and 211(d) of the Act, 42 U.S.C. §§ 7524(b) and 7545(d).

3. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b), and Sections 205(b) and 211(d) of the Act, 42 U.S.C. §§ 7524(b) and 7545(d), because the

Defendants reside and/or do business in this district.

DEFENDANTS

4. The Defendants, Global Companies, L.L.C. and Global Petroleum Corporation (collectively "Defendants"), are, upon information and belief, a Delaware corporation and a Massachusetts corporation, respectively, with their principal place of business in Waltham, Massachusetts. Upon information and belief, and at all times relevant to this action, Global Companies, L.L.C. and/or Global Petroleum Corporation imported, refined, sold, and distributed reformulated and conventional gasoline in the United States.

5. Each Defendant is a "person" within the meaning of Section 302(e) of the Act, 42 U.S.C. § 7602(e).

THE CLEAN AIR ACT AND APPLICABLE REGULATIONS

6. Under the authority granted by Section 211(c) and (k) of the Clean Air Act, 42 U.S.C. § 7545(c) and (k), EPA established standards at 40 C.F.R. Part 80 for the importation, refining, sale, and distribution of reformulated gasoline (defined in 40 C.F.R. § 80.2(ee)) and conventional gasoline (defined in 40 C.F.R. § 80.2(ff)), as well as requirements for sampling and testing procedures, recordkeeping, and reporting.

7. Pursuant to 40 C.F.R. § 80.101, beginning January 1, 1995, all conventional gasoline refined or imported in a given year must meet the annual average emissions standards specified in that section.

8. Pursuant to 40 C.F.R. § 80.105, beginning with 1995, every refiner and importer of conventional gasoline must submit to EPA an annual report identifying, inter alia, the total gallons of conventional gasoline refined or imported during the year, the standards applicable to

such gasoline, and the gasoline's actual average specifications. Such report must be submitted to EPA by the last day of February in the year following the reporting year. Thus, the annual report for all conventional gasoline refined or imported during 1997 had to be submitted to EPA by February 28, 1998, and the annual report for all conventional gasoline refined or imported during 1999 had to be submitted to EPA by February 29, 2000.

9. Section 211(d) of the Clean Air Act, 42 U.S.C. § 7545(d), provides that any person who violates the regulations prescribed under Section 211(c) and (k) of the Act shall be liable for a civil penalty for each day of such violation. A violation of a regulatory standard that applies to a multiday averaging period constitutes a separate day of violation for each and every day of the averaging period. Pursuant to 40 C.F.R. § 19.4: for violations occurring before January 31, 1997, the amount of the civil penalty is no more than \$25,000 per day, plus the value of any economic benefit or savings resulting from the violation; for violations occurring between January 31, 1997 and March 15, 2004, the amount of the civil penalty is no more than \$27,500 per day, plus the value of any economic benefit or savings resulting from the violation; and for violations occurring after March 15, 2004, the amount of the civil penalty is no more than \$32,500 per day, plus the value of any economic benefit or savings resulting from the violation.

FIRST CLAIM FOR RELIEF

10. The allegations set forth in Paragraphs 1 through 9 are realleged and incorporated herein by reference.

11. During 1997, Defendants refined or imported approximately 19,000,000 gallons of conventional gasoline subject to the simple model standards for conventional gasoline in 40 C.F.R. § 80.101(b)(1).

12. Pursuant to 40 C.F.R. § 80.91(c)(5)(iii) and 40 C.F.R. § 101(b)(1)(iii), the average olefin content standard applicable to the gasoline described in Paragraph 11 was 13.5 volume percent (“vol. %”).

13. The average olefin content of the gasoline described in Paragraph 11 exceeded the 13.5 vol. % olefin standard described in Paragraph 12.

14. Defendants’ failure to comply with the average olefin content standard applicable to the gasoline described in Paragraph 11 violated 40 C.F.R. § 80.101.

15. As a violation of a regulatory standard applying to a multiday averaging period, Defendants’ violation described in Plaintiff’s First Claim for Relief constituted a separate violation for each and every day of the averaging period.

SECOND CLAIM FOR RELIEF

16. The allegations set forth in Paragraphs 1 through 15 are realleged and incorporated herein by reference.

17. Pursuant to 40 C.F.R. § 80.91(c)(5)(iv) and 40 C.F.R. § 101(b)(1)(i), the average exhaust benzene standard applicable to the gasoline described in Paragraph 11 was 6.45 milligrams per mile (“mg/mi”).

18. The average exhaust benzene level of the gasoline described in Paragraph 11 exceeded the 6.45 mg/mi exhaust benzene standard described in Paragraph 17.

19. Defendants’ failure to comply with the average exhaust benzene standard applicable to the gasoline described in Paragraph 11 violated 40 C.F.R. § 80.101.

20. As a violation of a regulatory standard applying to a multiday averaging period, Defendants’ violation described in Plaintiff’s Second Claim for Relief constituted a separate

violation for each and every day of the averaging period.

THIRD CLAIM FOR RELIEF

21. The allegations set forth in Paragraphs 1 through 20 are realleged and incorporated herein by reference.

22. Defendants did not file with EPA the report required by 40 C.F.R. § 80.105 with respect to the gasoline described in Paragraph 11 until after February 28, 1998.

23. The report described in Paragraph 22 that Defendants filed after February 28, 1998 did not accurately report the average olefin content and average exhaust benzene level of the gasoline described in Paragraph 11.

24. Defendants' failure to report timely and accurately the gasoline described in Paragraph 11 violated 40 C.F.R. § 80.105.

FOURTH CLAIM FOR RELIEF

25. The allegations set forth in Paragraphs 1 through 24 are realleged and incorporated herein by reference.

26. During 1999, Defendants refined or imported approximately 8,400,000 gallons of conventional gasoline subject to the complex model standards for conventional gasoline in 40 C.F.R. § 80.101(b)(3).

27. Pursuant to 40 C.F.R. § 80.91(c)(5)(iv) and 40 C.F.R. § 101(b)(3)(i), the average standard for oxides of nitrogen ("NOx") applicable to the gasoline described in Paragraph 26 was 714.4 mg/mi.

28. The average NOx level of the gasoline described in Paragraph 26 exceeded the 714.4 mg/mi NOx standard described in Paragraph 27.

29. Defendants' failure to comply with the average NO_x standard applicable to the gasoline described in Paragraph 26 violated 40 C.F.R. § 80.101.

30. As a violation of a regulatory standard applying to a multiday averaging period, Defendants' violation described in Plaintiff's Fourth Claim for Relief constituted a separate violation for each and every day of the averaging period.

FIFTH CLAIM FOR RELIEF

31. The allegations set forth in Paragraphs 1 through 30 are realleged and incorporated herein by reference.

32. Pursuant to 40 C.F.R. § 80.91(c)(5)(iv) and 40 C.F.R. § 101(b)(3)(i), the average exhaust toxics standard applicable to the gasoline described in Paragraph 26 was 50.67 mg/mi.

33. The average exhaust toxics level of the gasoline described in Paragraph 26 exceeded the 50.67 mg/mi exhaust toxics standard described in Paragraph 32.

34. Defendants' failure to comply with the average exhaust toxics standard applicable to the gasoline described in Paragraph 26 violated 40 C.F.R. § 80.101.

35. As a violation of a regulatory standard applying to a multiday averaging period, Defendants' violation described in Plaintiff's Fifth Claim for Relief constituted a separate violation for each and every day of the averaging period.

SIXTH CLAIM FOR RELIEF

36. The allegations set forth in Paragraphs 1 through 35 are realleged and incorporated herein by reference.

37. Defendants did not file with EPA the report required by 40 C.F.R. § 80.105 with respect to the gasoline described in Paragraph 26 until after February 29, 2000.

38. The report described in Paragraph 37 that Defendants filed after February 29, 2000 did not accurately report the average NOx level or the average exhaust toxics level of the gasoline described in Paragraph 26

39. Defendants' failure to report timely and accurately the gasoline described in Paragraph 26 violated 40 C.F.R. § 80.105.

SEVENTH CLAIM FOR RELIEF

40. The allegations set forth in Paragraphs 1 through 39 are realleged and incorporated herein by reference.

41. During 2000, Defendants refined or imported approximately 10,000,000 gallons of conventional gasoline subject to the complex model standards for conventional gasoline in 40 C.F.R. § 80.101(b)(3).

42. Pursuant to 40 C.F.R. § 80.91(c)(5)(iv) and 40 C.F.R. § 101(b)(3)(i), the average NOx standard applicable to the gasoline described in Paragraph 41 was 1461.0 mg/mi.

43. The average NOx level of the gasoline described in Paragraph 41 exceeded the 1461.0 mg/mi standard described in Paragraph 42.

44. Defendants' failure to comply with the average NOx standard applicable to the gasoline described in Paragraph 41 violated 40 C.F.R. § 80.101.

45. As a violation of a regulatory standard applying to a multiday averaging period, Defendants' violation described in Plaintiff's Seventh Claim for Relief constituted a separate violation for each and every day of the averaging period.

Prayer for Relief

WHEREFORE, Plaintiff, the United States of America, respectfully requests that the

Court:

1. Assess against Defendants a civil penalty, pursuant to Section 211(d) of the Act, 42 U.S.C. § 7545(d), for violations of the regulations prescribed under Section 211(c) and (k) of the Act, 42 U.S.C. §§ 7545(c) and (k), in the amount of the value of any economic benefit or savings resulting from the violations, plus (1) for any violation occurring prior to January 31, 1997, \$25,000 per day for each day of violation, and (2) for any violation occurring between January 31, 1997 and March 15, 2004, \$27,500 per day for each day of violation, and (3) for any violation occurring after March 15, 2004, \$32,500 per day for each day of violation;
2. Award the United States its costs and disbursements in this action; and
3. Grant the United States such other relief as this Court may deem appropriate.

Respectfully Submitted,

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